IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

C.R.No. 1631 of 2007
Date of decision : 23.3.2007

Jit Kumar & Ors.

...Petitioners.

Versus

Inder Mohan & Ors.

...Respondents.

CORAM : HON'BLE MR. JUSTICE VINOD K. SHARMA

Present : Mr.G.S. Sandhawalia, Advocate
for the petitioner.

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VINOD K. SHARMA, J. (ORAL)

This revision arises from an order passed by the learned Civil Judge (Sr. Divn.), Kapurthala vide which objections filed by the petitioners against the execution of a decree for redemption of mortgage and possession was ordered to be dismissed.

The petitioners filed an objection petition primarily on the ground that the compromise decree passed in favour of the decree-holder was outcome of a fraud. It was claimed that compromise was entered into to defeat the interest of the objectors who were stated to be successors of the tenant. It was also claimed that the compromise entered into between the parties to the suit was not binding on the objectors as they were not party to the said compromise. It was claimed that the petitioners being tenant in the property in dispute cannot be directed to deliver the possession of the premises in dispute. The objectors also claimed that the execution proceedings be stayed as the final decree in terms of preliminary decree had not attained finality.

The decree-holder had filed a suit for possession by way of

redemption in which the preliminary decree was passed on 31.1.1996 and the appeal against the said order was dismissed on 12.5.2001. The preliminary decree was challenged by way of regular second appeal No. 4236 of 2001, in the said appeal a compromise was entered into on 24.4.2003 in which the rights of the petitioners were said to have been defeated. The petitioners filed objections against the said compromise order, the order was withdrawn, however, the regular second appeal was thereafter dismissed on merits on 2.9.2004. It was after the dismissal of the regular second appeal that a final decree was passed on 7.5.2005. The objections raised by the petitioners before the executing Court were similar to one raised before this Court in the regular second appeal No. 4236 of 2001, which were not accepted. It was also not disputed that the petitioners were party to the suit and, therefore, were bound by the decree passed. Therefore, the contention raised by the petitioners were rightly rejected.

The other contention of the learned counsel for the petitioners that the objections filed by the petitioners could not have been dismissed summarily cannot be sustained as the petitioners were party to the suit and similar objections raised by the petitioners were rejected by this Court.

There is no illegality or lack of jurisdiction in the order passed by the learned executing Court which may call for interference by this Court in exercise of revisional jurisdiction.

Dismissed.

23.3.2007 **(VINOD K. SHARMA)**
'sp' **JUDGE**